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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		<b>Docket Number (Optional)</b> 4539-0115PUS1	
		<b>Application Number</b> 10/582,172-Conf. #8941	<b>Filed</b> June 8, 2006
		<b>First Named Inventor</b> Hiroshi NAKANISHI et al.	
		<b>Art Unit</b> 2883	<b>Examiner</b> K. C. Kianni
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <p><input type="checkbox"/> applicant /inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>29,271</u></p> <p><input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____</p> <p><i>Robert Damm #48222</i> Signature</p> <p>Charles Gorenstein Typed or printed name</p> <p>(703) 205-8000 Telephone number</p> <p>April 22, 2009 Date</p> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p> <p><input type="checkbox"/> *Total of <u>1</u> forms are submitted.</p>			

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

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In re Patent Application of:  
Hiroshi NAKANISHI et al.

Application No.: 10/582,172

Confirmation No.: 8941

Filed: June 8, 2006

Art Unit: 2883

For: METHOD OF PRODUCING MICRO-LENS-  
CARRYING DISPLAY PANEL AND  
DISPLAY UNIT AND EXPOSURE SYSTEM

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Examiner: K. C. Kianni

**REASONS FOR PRE-APPEAL BRIEF REQUEST FOR REVIEW**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Madam:

In addition to the Notice of Appeal which is being concurrently filed, Applicants respectfully request a Pre-Appeal Brief Conference to consider the issues raised in the Office Action dated December 22, 2008, that finally rejected claims 1-8 and 12-18, and Advisory Action of April 1, 2009.

**Rejection Under 35 U.S.C. 103(a)**

The Examiner has rejected claims 1-8 and 12-18 under the provisions of 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 6,628,355 ("Takahara"). The Applicants respectfully submit that claims 1-8 and 12-18 are patentable over Takahara. For a section 103 rejection to be proper, the written record must include findings of fact concerning the state of the art and the teachings of the references applied. The factual findings are the necessary underpinnings to establish *prima facie* obviousness. Thus, if a finding of fact that is used to establish obviousness is in error, *prima facie* obviousness has not been established. Applicants

submit that the Examiner's rejection has misinterpreted teachings of the Takahara reference, and subsequently fails to establish *prima facie* obviousness.

**The Examiner's Rejection Misinterprets Takahara's optical coupling agent 691 as being a photo-curable material used in steps for forming microlenses**

The Advisory Action alleges that Fig. 64 of Takahara shows a photo-curable material, and that microlenses 641 are formed by removing uncured material leaving microlenses, as shown in Fig. 66. The Examiner's further arguments in the Advisory Action are in response to the Applicants' argument that material 691 is an optical coupling agent such as water and is not used in forming microlens 641 (Amendment at pages 10-11).

Applicants submit that Takahara discloses that the optical coupling agent is used in conjunction with previously formed microlenses in order to lengthen the focal distance for ultraviolet rays to effect phase separation of mixed solution 315 (col. 55, l. 63 to col. 56, l. 43).

In particular, Takahara discloses: "As shown in Fig. 69, if the oblique line portion is filled with water (Optical coupling agent 691), the difference in refractive index between the microlens and water in contact with the convex portion of the microlens will become small and therefore the focal distance will become long." (col. 56, ll. 26-30).

Thus, it can be seen that Fig. 69 shows a case of Fig. 64 where the space between the microlens 641 and the substrate is filled with optical coupling agent 691 (col. 56, ll. 38-41). In other words, Fig. 64 does not show a photo-curable material – not numbered. Instead, Fig. 64 shows a space (col. 56, ll. 39-40).

Applicants submit that Fig. 66 shows a case where microlenses are in the form of stripes. Fig. 66 does not pertain to a step and/or result of forming the microlens using the optical coupling agent 691. In any case, at least because Fig. 64 shows a space, it follows that Fig. 66 does not show microlenses formed when uncured material is removed.

Furthermore, Takahara mentions several approaches for forming the microlenses 641, none of which include an explicit step of exposing a photocurable material layer to light to

partially cure the photocurable material, and thereby form a plurality of microlenses, as recited in the present claims.

For example, Takahara discloses that microlens 641 can be easily fabricated if a metal mold is made and ultraviolet ray setting resin is injected into the metal mold and transferred. (col. 55, ll. 13-15). Alternatively, Takahara discloses that microlenses 641 may be formed within the transparent substrate 642, by employing an ion exchange technique. (col. 55, ll. 43-47).

Still further, the ultraviolet rays that pass through the microlenses and optical coupling agent are for phase separation in the mixed solution 315, not for partially curing the optical coupling agent. (using microlenses as a mask is a special case of the process described at col. 52, l. 33 to col. 54, l. 34).

At least for these reasons, Applicants submit that the rejection is based on a misinterpretation of the teachings of Takahara, and thus fails to establish *prima facie* obviousness.

In view of the above, each of the claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

Dated: April 22, 2009

Respectfully submitted,

By Robert Down #48222  
Charles Gorenstein  
Registration No.: 29,271  
BIRCH, STEWART, KOLASCH & BIRCH, LLP  
8110 Gatehouse Road  
Suite 100 East  
P.O. Box 747  
Falls Church, Virginia 22040-0747  
(703) 205-8000  
Attorney for Applicant